

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
FT. LAUDERDALE DIVISION

Case No.: _____

JAMAAL ANDERSON, JACOB BELL,
DERRICK GAFFNEY, TAVARES
GOODEN, FRANK GORE, SANTONIO
HOLMES, GREG JONES, JEVON
KEARSE, KENARD LANG, RAY LEWIS,
BRANDON MERIWEATHER, SANTANA
MOSS, CLINTON PORTIS, LITO
SHEPPARD, FRED TAYLOR, and
GERARD WARREN,

Plaintiffs,

vs.

BRANCH BANKING AND TRUST
COMPANY, as successor in interest to
BankAtlantic, LLC,

Defendant,

_____ /

COMPLAINT

COME NOW, Plaintiffs, JAMAAL ANDERSON, JACOB BELL, DERRICK GAFFNEY, TAVARES GOODEN, FRANK GORE, SANTONIO HOLMES, GREG JONES, JEVON KEARSE, KENARD LANG, RAY LEWIS, BRANDON MERIWEATHER, SANTANA MOSS, CLINTON PORTIS, LITO SHEPPARD, FRED TAYLOR, and GERARD WARREN (collectively, the “Plaintiffs”), by and through their attorneys, and hereby sue Defendant, BRANCH BANKING AND TRUST COMPANY, as successor in interest to BankAtlantic, LLC (“BB&T”), and state as follows:

PARTIES

1. Plaintiff, Jamaal Anderson (“Anderson”), is a resident of Braselton, Georgia.
2. Plaintiff, Jacob Bell (“Bell”), is a resident of St. Louis, Missouri.
3. Plaintiff, Derrick Gaffney (“Gaffney”), is resident of Duval County, Florida.
4. Plaintiff, Tavares Gooden (“Gooden”) is a resident of Broward County, Florida.
5. Plaintiff, Frank Gore (“Gore”), is a resident of Dade County, Florida.
6. Plaintiff, Santonio Holmes (“Holmes”), is a resident of Palm Beach County,
Florida.
7. Plaintiff, Greg Jones (“Jones”), is a resident of Duval County, Florida.
8. Plaintiff, Jevon Kearse (“Kearse”), is a resident of Broward County, Florida.
9. Plaintiff, Kenard Lang (“Lang”), a resident of Orange County, Florida.
10. Plaintiff, Ray Lewis (“Lewis”), is a resident of Reisterstown, Maryland.
11. Plaintiff, Brandon Meriweather (“Meriweather”), is a resident of Dade County,
Florida.
12. Plaintiff, Santana Moss (“Moss”), is a resident of Broward County, Florida.
13. Plaintiff, Clinton Portis (“Portis”), is a resident of Dade County, Florida.
14. Plaintiff, Lito Sheppard (“Sheppard”), is a resident of Orange County, Florida.
15. Plaintiff, Fred Taylor (“Taylor”), is a resident of Broward County, Florida.
16. Plaintiff, Gerard Warren (“Warren”), is a resident of Hillsborough County,
Florida.
17. Defendant, BB&T, is a North Carolina corporation having its principal place of
business in the State of North Carolina.

18. BB&T is registered to do business in the State of Florida, and maintains offices or facilities throughout the State of Florida, including in Broward County, Florida.

19. BB&T is a successor in interest to BankAtlantic, LLC (“BankAtlantic”) and has assumed the rights and liabilities associated with the accounts maintained by Plaintiffs at BankAtlantic.

VENUE AND JURISDICTION

20. Venue is appropriate in this Court pursuant to 28 U.S.C. § 1391.

21. This Court has jurisdiction with respect to this matter under 28 U.S.C. § 1332(a) because there is complete diversity of citizenship among the properly joined parties, and the matter in controversy exceeds the sum of Seventy-Five Thousand Dollars (\$75,000.00).

22. Pursuant to 28 U.S.C. § 1331, this Court has original jurisdiction with respect to Counts III and IV, which arise from Federal Regulation J, Subpart B (to the extent that this Regulation preempts Chapter 670 of the Florida Statutes), and would have supplemental jurisdiction over the remaining causes of action herein pursuant to 28 U.S.C. § 1367(a).

COMMON ALLEGATIONS

23. Each of the Plaintiffs is or was a professional football player employed by teams in the National Football League.

24. Each of the Plaintiffs entered into a separate Client Service Agreement with Pro Sports Financial, Inc. (“Pro Sports”) pursuant to which Pro Sports provided each Player with tax planning, business counseling and concierge services.

25. Pro Sports was a financial management firm owned and operated by Jeffrey B. Rubin (“Rubin”).

26. BB&T developed a close business relationship with Pro Sports, Rubin and other Pro Sports employees.

27. BB&T had a special division dedicated to targeting and servicing athletes and others in the sports industry. BB&T advertised and offered this division as a specialized service to those who qualified.

28. As a result of the relationship between BB&T, Pro Sports and Rubin, Pro Sports deposited tens of millions of dollars of Plaintiffs' money at BB&T.

29. Money belonging to each Plaintiff was deposited into an account opened in the name of that Plaintiff.

30. BB&T was provided with a copy of the Client Service Agreement between each Plaintiff and Pro Sports, each of which defined the scope of the services provided by Pro Sports to each Plaintiff, at or before the opening of each of the accounts at issue.

31. Some accounts opened and maintained in one or more of the Plaintiffs' names were illegitimate accounts that were opened with signature cards containing signatures that were forged by Pro Sports' employees.

32. BB&T directly benefited from the Plaintiffs' accounts by, among other ways, having the tens of millions of Plaintiffs' dollars on deposit with BB&T.

33. After the monies were deposited, BB&T allowed numerous unusual, suspicious and extraordinary withdrawals from accounts opened in the name of each Plaintiff that were neither within the scope of the service identified in the Client Services Agreement nor authorized by the Plaintiff in whose name the account was opened.

34. BB&T had actual knowledge that certain transactions on the Plaintiffs' accounts were unauthorized and exceeded the scope of the Plaintiffs' Client Service Agreements with Pro Sports.

35. Many of the unauthorized transactions were loans or transactions made on behalf of the Plaintiffs in a casino/bingo project in Alabama known as Center Stage a/k/a County Crossing (the "County Crossing Project").

36. The casino style gaming, which was the primary and most lucrative aspect of the County Crossing Project, was deemed illegal under Alabama in July of 2012. As a result, the County Crossing Project failed.

37. BB&T also allowed numerous additional withdrawals from Plaintiffs' account without Plaintiffs' knowledge and/or informed consent.

38. As a result, the Plaintiffs lost millions of dollars from the loans, transactions and other withdrawals that were made out of their accounts at BB&T without Plaintiffs' knowledge and/or informed consent.

39. All conditions precedent to the filing of this lawsuit have been satisfied.

GROUP A PLAINTIFFS

40. BB&T allowed accounts to be opened and maintained, and business to be transacted on accounts in the names of Gaffney, Gore, Kearse, Lang, Lewis, Moss, Portis, Sheppard, and Taylor (the "Group A Plaintiffs") without their knowledge and/or informed consent.

41. Specifically, BB&T opened the following accounts in the names of the Group A Plaintiffs without their knowledge and/or informed consent:

(a) On or about October 16, 2006, BB&T account ending in *7441 was opened in the name of Derrick Gaffney by virtue of a forged signature card.

(b) On or about October 16, 2006, BB&T account ending in *7375 was opened in the name of Frank Gore by virtue of a forged signature card.

(c) On or about October 16, 2006, BB&T account ending in *7797 was opened in the name of Jevon Kearse by virtue of a forged signature card.

(d) On or about October 16, 2006, BB&T account ending in *7383 was opened in the name of Kenard Lang by virtue of a forged signature card.

(e) On or about October 16, 2006, BB&T account ending in *7540 was opened in the name of Ray Lewis by virtue of a forged signature card.

(f) On or about October 16, 2006, BB&T account ending in *7409 was opened in the name of Santana Moss by virtue of a forged signature card.

(g) On or about October 17, 2006, BB&T account ending in *7532 was opened in the name of Clinton Portis by virtue of a forged signature card.

(h) On or about October 16, 2006, BB&T account ending in *7821 was opened in the name of Lito Sheppard by virtue of a forged signature card.

(i) On or about October 16, 2006, BB&T account ending in *7813 was opened in the name of Fred Taylor by virtue of a forged signature card.

(The accounts identified in this paragraph are hereinafter collectively referred to as the “Group A Accounts”).

42. All of the Group A Accounts were opened by BB&T employee Steve Johnson over the span of a few days.

43. All of the Group A Accounts were opened using monies that were on deposit in accounts previously maintained by the Group A Plaintiffs at BB&T.

44. When opening the Group A Accounts, and during the multiple years in which the Group A Accounts were maintained, BB&T identified Pro Sports' address as the mailing address for each and every Group A Plaintiff without the knowledge or informed consent of any Group A Plaintiff.

45. BB&T subsequently delivered all statements and correspondence relating to the Group A Accounts to Pro Sports instead of to the individual Group A Plaintiff in whose name a particular account was opened.

46. BB&T's delivery of statements to Pro Sports and not to the Group A Plaintiffs ensured that the Group A Plaintiffs would not receive account-related documentation that would have alerted them to the opening, maintaining and misuse of the Group A Accounts.

47. Each of the Group A Accounts were opened and maintained as a "power of attorney account," and the documentation for each Group A Account designated one of three Pro Sports' employees as the holder of the power of attorney.

48. None of the Group A Plaintiffs had ever executed a power of attorney relating to his respective Group A Account on or prior to the date that the Group A Accounts were opened as "power of attorney accounts."

49. None of the Group A Plaintiffs had knowledge of or approved of the opening or maintaining of the Group A Accounts.

50. BB&T failed to properly verify the identity of each of the Group A Plaintiffs when it opened the Group A Accounts.

51. BB&T failed to properly verify the identity of each of the Group A Plaintiffs during the entire period of time it maintained the Group A Accounts.

52. Each of the Group A Plaintiffs had prior accounts with BB&T. Accordingly, BB&T had sufficient identification information (including prior signature cards) to determine that the Group A Accounts were not opened by the Group A Plaintiffs.

53. BB&T allowed the Group A Accounts to be opened and to be maintained without following its own protocols and without regard to reasonable or due care or concern for the authenticity of the signature cards associated with each Group A Account in order to promote its own self-interest.

54. After allowing the Group A Accounts to be opened as power of attorney accounts without the Group A Plaintiffs' knowledge or consent, BB&T also occasionally accepted and acted upon wire transfer instructions from Pro Sports employees who were not even named as the attorney-in-fact for a particular account.

55. BB&T failed to act in good faith and with reasonable care when opening and maintaining the Group A Accounts and in allowing unauthorized business to be transacted on the Group A Accounts.

56. BB&T failed to take action to confirm with the Group A Plaintiffs that the opening or maintaining of the Group A Accounts was authorized, and that the transactions on the Group A Accounts were authorized.

57. As a result of BB&T's lack of good faith and reasonable care, and its otherwise improper handling of the Group A Accounts, Pro Sports and Rubin were allowed to transfer monies out of each Group A Plaintiff's account without Group A Plaintiffs' knowledge and/or

informed consent, and for an unauthorized or improper lending or business purpose. More specifically,

(a) A total amount in excess of \$2,295,000.00 was transferred out of an account opened in the name of Gaffney for an illegitimate purpose and without his knowledge and/or informed consent.

(b) A total amount in excess of \$8,745,000.00 was transferred out of an account opened in the name of Gore for an illegitimate purpose and without his knowledge and/or informed consent.

(c) A total amount in excess of \$7,958,000.00 was transferred out of an account opened in the name of Kearse for an illegitimate purpose and without his knowledge and/or informed consent.

(d) A total amount in excess of \$1,648,000.00 was transferred out of an account opened in the name of Lang for an illegitimate purpose and without his knowledge and/or informed consent.

(e) A total amount in excess of \$3,778,000.00 was transferred out of an account opened in the name of Lewis for an illegitimate purpose and without his knowledge and/or informed consent.

(f) A total amount in excess of \$4,852,000.00 was transferred out of an account opened in the name of Moss for an illegitimate purpose and without his knowledge and/or informed consent.

(g) A total amount in excess of \$3,136,000.00 was transferred out of an account opened in the name of Portis for an illegitimate purpose and without his knowledge and/or informed consent.

(h) A total amount in excess of \$5,011,000.00 was transferred out of an account opened in the name of Sheppard for an illegitimate purpose and without his knowledge and/or informed consent.

(i) A total amount in excess of \$2,993,000.00 was transferred out of an account opened in the name of Taylor for an illegitimate purpose and without his knowledge and/or informed consent.

(collectively, the “Group A Improper Withdrawals”).

58. The Group A Improper Withdrawals generally consisted of even dollar amounts in excess of \$10,000.00, and on many occasions equaled or exceeded \$100,000.00.

59. BB&T failed to take action to confirm with the owners of the Group A Accounts that any of the large, round-dollar and frequently occurring Group A Improper Withdrawals were authorized.

60. While some of the Group A Plaintiffs may have heard of the County Crossing Project, may have had general information about the nature of the project and/or may have been aware of the potential for making loans or transactions relating to the County Crossing Project in exchange for a return on the loans or transactions, these Group A Plaintiffs did not approve of the extent or volume of any such transactions, did not understand the nature of or appreciate the risk associated with any such transactions and were prevented from discovering the extent, volume and nature of any such transactions that are reflected in the Group A Improper Withdrawals as a result of BB&T’s wrongful actions and its failure to exercise good faith, act with ordinary care and engage in reasonable or prudent banking practices.

61. BB&T substantially assisted in allowing and concealing the Group A Improper Withdrawals by improperly opening and maintaining the Group A Accounts, allowing the Group A Improper Withdrawals while knowing they exceeded the scope of the applicable Client

Services Contract and sending statements and correspondence for the Group A Accounts to Pro Sports without Group A Plaintiffs' knowledge and consent.

62. Neither Pro Sports, nor Rubin, nor any Pro Sports employee had authority to open or maintain the Group A Accounts, and the opening and maintaining these unauthorized accounts in this manner was neither necessary nor incidental to the services provided by them to the Group A Plaintiffs under the terms of the applicable Client Services Agreements.

63. Neither Pro Sports, nor Rubin, nor any Pro Sports employee had the authority to make the Group A Improper Withdrawals or any other transactions from any of the Group A Accounts without the Group A Plaintiffs' knowledge and/or informed consent, and the Group A Improper Withdrawals were neither necessary nor incidental to the services provided by them to the Group A Plaintiffs under the terms of the applicable Client Services Agreement.

64. BB&T's actions, inactions, lack of good faith and lack of ordinary care in opening and maintaining the Group A Accounts based upon forged signature cards and without obtaining proper identification information from the Group A Players, allowed for the unauthorized transactions and investments to be made without the Group A Plaintiffs' knowledge and/or informed consent, and otherwise substantially assisted Pro Sports and Rubin in diverting and using significant sums of money belonging to the Group A Plaintiffs without authorization.

GROUP B PLAINTIFFS

65. Subsequent to the establishment of its close business relationship with Pro Sports, BB&T allowed Pro Sports to open and maintain power of attorney accounts for Anderson, Bell, Gooden, Holmes, Jones, Meriweather and Warren (the "Group B Plaintiffs").

66. Specifically, BB&T opened and maintained the following accounts in the names of the Group B Plaintiffs:

(a) On or about June 22, 2007, BB&T account ending in *9343 was opened in the name of Jamaal Anderson.

(b) On or about October 23, 2007, BB&T account ending in *8408 was opened in the name of Jacob Bell.

(c) On or about March 27, 2008, BB&T account ending in *2112 was opened in the name of Tavares Gooden.

(d) On or about June 25, 2007, BB&T account ending in *8733 was opened in the name of Santonio Holmes.

(e) On or about March 25, 2008, BB&T account ending in *1882 was opened in the name of Greg Jones.

(f) On or about August 7, 2007, BB&T account ending in *3742 was opened in the name of Brandon Meriweather.

(g) On or about October 11, 2006, BB&T account ending in *9868 was opened in the name of Gerard Warren.

(collectively, the “Group B Accounts”).

67. The designated power of attorney for each Group B Account was a Pro Sports employee.

68. Despite the fact that the Group B Accounts were power of attorney accounts, BB&T opened some of the Group B Accounts without having a power of attorney executed by the applicable Group B Plaintiff as of the date of the opening of the account.

69. Each of the Group B Accounts was opened by BB&T employees with knowledge of the relationship between BB&T and Pro Sports, and between Pro Sports and the Group B Plaintiffs.

70. BB&T knew that the Group B Accounts were to be used strictly for concierge or bill pay services pursuant to the terms of the Client Service Agreements in BB&T's possession.

71. The Group B Accounts were not intended to be used for any other purpose.

72. BB&T allowed Pro Sports employees to wire monies out of the Group B Accounts for unauthorized or improper lending or business purposes.

73. In allowing wires out of the Group B Accounts for unauthorized or improper lending or business purposes, BB&T occasionally accepted and acted upon wire instructions from persons who were not even the attorney-in-fact identified for the applicable Group B Account.

74. As a result of BB&T's lack of good faith and reasonable care, and its otherwise improper handling of the Group B Accounts, Pro Sports and Rubin were allowed to transfer monies out of each Group B Plaintiff's Account without Group B Plaintiffs' knowledge and/or informed consent. More specifically,

(a) A total amount in excess of \$5,813,000.00 was transferred out of an account opened in the name of Anderson for an illegitimate purpose and without his knowledge and/or informed consent.

(b) A total amount in excess of \$3,339,000.00 was transferred out of an account opened in the name of Bell for an illegitimate purpose and without his knowledge and/or informed consent.

(c) A total amount in excess of \$515,000.00 was transferred out of an account opened in the name of Gooden for an illegitimate purpose and without his knowledge and/or informed consent.

(d) A total amount in excess of \$1,159,000.00 was transferred out of an account opened in the name of Holmes for an illegitimate purpose and without his knowledge and/or informed consent.

(e) A total amount in excess of \$2,006,000.00 was transferred out of an account opened in the name of Jones for an illegitimate purpose and without his knowledge and/or informed consent.

(f) A total amount in excess of \$3,645,000.00 was transferred out of an account opened in the name of Meriweather for an illegitimate purpose and without his knowledge and/or informed consent.

(g) A total amount in excess of \$3,000,000.00 was transferred out of an account opened in the name of Warren for an illegitimate purpose and without his knowledge and/or informed consent.

(collectively, the “Group B Improper Withdrawals”).

75. The Group B Improper Withdrawals generally consisted of even dollar amounts in excess of \$10,000.00, and on many occasions equaled or exceeded \$100,000.00.

76. BB&T failed to take action to confirm with the owners of the Group B Accounts that any of the large, round-dollar and frequently occurring Group B Improper Withdrawals were authorized.

77. While some of the Group B Plaintiffs may have heard of the County Crossing Project, may have had general information about the nature of the project and/or may have been aware of the potential for making loans or transactions relating to the County Crossing Project in exchange for a return on the loans or transactions, these Group B Plaintiffs did not approve of the extent or volume of any such transactions, did not understand the nature of or appreciate the risk associated with any such transactions and were prevented from discovering the extent, volume

and nature of any such transactions that are reflected in the Group B Improper Withdrawals as a result of BB&T's wrongful actions and its failure to exercise good faith, act with ordinary care and engage in reasonable or prudent banking practices.

78. BB&T substantially assisted in allowing the Group B Improper Withdrawals by knowingly allowing the withdrawals to be made even though they were (a) beyond the scope of the applicable power of attorney (if any), (b) beyond the scope of the applicable Client Service Agreement, and/or (c) made by persons who were not even identified as the attorney-in-fact for the account from which the withdrawals were made.

79. Neither Pro Sports, nor Rubin, nor any Pro Sports employee had the authority to make the Group B Improper Withdrawals from any of the Group B Accounts without the Group B Plaintiff's knowledge and/or informed consent, and the Group B Improper Withdrawals were neither necessary nor incidental to the services provided by them to the Group B Plaintiffs under the terms of the applicable Client Services Agreement.

80. BB&T's actions, inactions, lack of good faith and lack of ordinary care in maintaining the Group B Accounts in an improper manner and in allowing monies to be transferred out of the Group B Accounts without the Group B Plaintiffs' knowledge and/or informed consent, substantially assisted Pro Sports and Rubin in stealing significant sums of money from the Group B Plaintiffs.

COUNT I – NEGLIGENCE AS TO GROUP A PLAINTIFFS

81. Group A Plaintiffs reallege and incorporate paragraphs 1 through 64 above as if fully set forth herein.

82. Each Group A Plaintiff was a BB&T customer prior to the opening of the Group A Accounts.

83. BB&T owed each Group A Plaintiff a duty to exercise reasonable care with respect to the opening and maintaining of any and all accounts opened in the name of a Group A Plaintiff and with respect to the safekeeping of funds that were transferred into those accounts and acquiring proper authorization for transactions involving funds being transferred from those accounts.

84. BB&T breached the duties it owed to the Group A Plaintiffs and was grossly negligent and conducted its duties in bad faith by opening and maintaining the Group A Accounts without the Group A Plaintiffs' knowledge and/or informed consent as outlined above.

85. BB&T actively concealed this breach from the Group A Plaintiffs.

86. As a direct and proximate cause of BB&T's breach of its duties, Group A Plaintiffs suffered and incurred damages.

WHEREFORE, Group A Plaintiffs request that the Court enter a Judgment in favor of Group A Plaintiffs, and against Defendant, BRANCH BANKING AND TRUST COMPANY, for all damages incurred by Group A Plaintiffs, for punitive damages as appropriate and for such other and further relief as the Court deems just and proper.

COUNT II – BREACH OF CONTRACT AS TO GROUP B PLAINTIFFS

87. Group B Plaintiffs reallege and incorporate paragraphs 1 through 39 and 65 through 80 above as if fully set forth herein.

88. Upon the opening of each Group B Account, the relevant Group B Plaintiff entered into a contractual relationship with BB&T.

89. The written contracts between each Group B Plaintiff and BB&T includes a signature card, a Depositor's Agreement and the applicable power of attorney (if any, or at such

time one was executed by a particular Group B Plaintiff). Group B Plaintiffs do not have possession of all such documents at this time.

90. BB&T has in its possession the signature card, all applicable Depositor's Agreements (as amended from time to time to time) and the applicable powers of attorney (if any) for each of the Group B Accounts.

91. Upon information and belief, the Depositor's Agreement for each Group B Plaintiff is similar to the Depositor's Agreement attached hereto as Exhibit "A".

92. Upon information and belief, the powers of attorney that BB&T had for the Group B Plaintiffs (if any) is similar to the Limited Durable Power of Attorney attached hereto as Exhibit "B".

93. BB&T breached the contractual agreements with one or more Group B Plaintiffs by opening a "power of attorney" account without having a power of attorney.

94. BB&T breached the contractual agreements with one or more Group B Plaintiffs by occasionally accepting and acting upon instructions on the Group B Accounts by one or more persons who was/were not named as the power of attorney for the relevant Group B Account.

95. BB&T breached the contractual agreements by allowing funds from the Group B Accounts to be transferred pursuant to applicable the power of attorney (if any) to fund improper transactions that exceeded the scope of the applicable power of attorney (if any).

96. As a direct and proximate result of BB&T's breach of the contractual agreements, Group B Plaintiffs have suffered and incurred damages.

WHEREFORE, Group B Plaintiffs request that the Court enter a Judgment in favor of Group B Plaintiffs, and against Defendant, BRANCH BANKING AND TRUST COMPANY,

for all damages incurred by Group B Plaintiffs and for such other and further relief as the Court deems just and proper.

**COUNT III – REFUND OF UNAUTHORIZED AND INEFFECTIVE FUNDS
TRANSFER (GROUP A PLAINTIFFS)**

97. Group A Plaintiffs reallege and incorporate paragraphs 1 through 64 above as if fully set forth herein.

98. Chapter 670 of the Florida Statutes and Federal Regulation J, Subpart B (to the extent that this Regulation preempts Chapter 670 of the Florida Statutes) requires BB&T to make repayment for unauthorized or ineffective funds transfers.

99. BB&T permitted numerous unauthorized and ineffective funds transfers involving funds owed by Group A Plaintiffs out of the Group A Accounts.

100. Group A Plaintiffs had no agreement in place with BB&T regarding funds transfers or security procedures with respect to any funds transfers.

101. BB&T accepted and acted upon the unauthorized and ineffective funds transfers in bad faith, and lacked reasonable and ordinary care in allowing the funds transfers.

102. Group A Plaintiffs failed to timely receive actual notice that the unauthorized and ineffective funds transfers were occurring because BB&T concealed them from Group A Plaintiffs or otherwise prevented Group A Plaintiffs from discovering the transfers by delivering the statements for the Group A Accounts to Pro Sports instead of Group A Plaintiffs.

103. Group A Plaintiffs suffered and incurred damages as a direct and proximate result of the unauthorized and ineffective funds transfers.

WHEREFORE, Group A Plaintiffs request that the Court enter a Judgment in favor of Group A Plaintiffs, and against Defendant, BRANCH BANKING AND TRUST COMPANY,

for all damages incurred by Group A Plaintiffs and for such other and further relief as the Court deems just and proper.

**COUNT IV – REFUND OF UNAUTHORIZED AND INEFFECTIVE FUNDS
TRANSFER (GROUP B PLAINTIFFS)**

104. Group B Plaintiffs reallege and incorporate paragraphs 1 through 39 and 65 through 80 above as if fully set forth herein.

105. Chapter 670 of the Florida Statutes and Federal Regulation J, Subpart B (to the extent that this Regulation preempts Chapter 670 of the Florida Statutes) requires BB&T to make repayment for unauthorized or ineffective funds transfers.

106. BB&T permitted numerous unauthorized and ineffective funds transfers out of the Group B Accounts which were in contradiction to the authority provided to the powers of attorneys in place on each Group B Account, if any.

107. The persons making the funds transfers out of the Group B Accounts were not entrusted by Group B Plaintiffs with respect to making these payment orders for the stated purpose.

108. BB&T accepted and acted upon the unauthorized and ineffective funds transfers in bad faith, and lacked reasonable and ordinary care in allowing the funds transfers.

109. Group B Plaintiffs failed to timely receive actual notice that the unauthorized and ineffective funds transfers were occurring because BB&T mailed the statements reflecting those transfers to Pro Sports and those statements were not reviewed by Group B Plaintiffs.

110. Group B Plaintiffs suffered and incurred damages as a direct and proximate result of the unauthorized and ineffective funds transfers.

WHEREFORE, Group B Plaintiffs request that the Court enter a Judgment in favor of Group B Plaintiffs, and against Defendant, BRANCH BANKING AND TRUST COMPANY,

for all damages incurred by Group B Plaintiffs and for such other and further relief as the Court deems just and proper.

COUNT V- AIDING AND ABETTING BREACH OF FIDUCIARY DUTY
(AS TO GROUP A PLAINTIFFS)

111. Group A Plaintiffs reallege and incorporate paragraphs 1 through 64 above as if fully set forth herein.

112. Pro Sports, Rubin and other Pro Sports employees who held themselves out to be attorneys-in-fact for the Group A Plaintiffs, provided the Group A Plaintiffs with tax planning, business counseling and concierge services.

113. As a result of their relationship with Pro Sports, Rubin and other Pro Sports employees and the services that these individuals provided, Group A Plaintiffs extended trust and confidence in them.

114. Pro Sports, Rubin and other Pro Sports employees accepted this trust and confidence and owed a fiduciary duty to the Group A Plaintiffs.

115. Pro Sports, Rubin and other Pro Sports employees breached their fiduciary duties to the Group A Plaintiffs by taking actions such as opening and maintaining the Group A Accounts without Group A Plaintiffs' knowledge and/or informed consent, making the Group A Improper Withdrawals without Group A Plaintiffs' knowledge and/or informed consent, engaging in selling away schemes, exceeding the scope of their Client Services Agreement with each Group A Plaintiff and otherwise acting contrary to the interests of the Group A Plaintiffs.

116. BB&T had actual knowledge of the fiduciary relationship between the Group A Plaintiffs and Pro Sports, Rubin and other Pro Sports employees.

117. BB&T had actual knowledge of the scope and limitations on the authority the Group A Plaintiffs granted to Pro Sports, Rubin and other Pro Sports as a result of their relationship.

118. BB&T had actual knowledge that Pro Sports, Rubin and other Pro Sports breached the fiduciary duties owed to the Group A Plaintiff in the manners outlined above.

119. BB&T knowingly and voluntarily aided, abetted and otherwise provided substantial assistance to Pro Sports, Rubin and other Pro Sports employees in their breach of the fiduciary duties owed to the Group A Plaintiffs.

120. BB&T could have, and should have, acted to prevent or limit the breaches of fiduciary duty that Pro Sports, Rubin and other Pro Sports were able to effectuate through the use of the Group A Accounts.

121. As a direct and proximate result of BB&T's aiding and abetting these breaches of fiduciary duty, Group A Plaintiffs have suffered and incurred damages.

WHEREFORE, Group A Plaintiffs request that the Court enter a Judgment in favor of Group A Plaintiffs, and against Defendant, BRANCH BANKING AND TRUST COMPANY, for all damages incurred by Group A Plaintiffs, for punitive damages as appropriate and for such other and further relief as the Court deems just and proper.

COUNT VI- AIDING AND ABETTING BREACH OF FIDUCIARY DUTY
(AS TO GROUP B PLAINTIFFS)

122. Group B Plaintiffs reallege and incorporate paragraphs 1 through 39 and 65 through 80 above as if fully set forth herein.

123. Pro Sports, Rubin and other Pro Sports employees who were or held themselves out to be attorneys-in-fact for the Group B Plaintiffs, provided the Group B Plaintiffs with tax planning, business counseling and concierge services.

124. As a result of their relationship with Pro Sports, Rubin and other Pro Sports employees and the services that these individuals provided, Group B Plaintiffs extended trust and confidence in them.

125. Pro Sports, Rubin and other Pro Sports employees accepted this trust and confidence and owed a fiduciary duty to the Group B Plaintiffs.

126. Pro Sports, Rubin and other Pro Sports employees breached their fiduciary duties to the Group B Plaintiffs by taking actions making the Group B Improper Withdrawals without Group B Plaintiffs' knowledge and/or informed consent, engaging in selling away schemes, exceeding the scope of the powers of attorneys executed by some of the Group B Plaintiffs, exceeding the scope of their Client Services Agreement with each Group B Plaintiff and otherwise acting contrary to the interests of the Group B Plaintiffs.

127. BB&T had actual knowledge of the fiduciary relationship between the Group B Plaintiffs and Pro Sports, Rubin and other Pro Sports employees.

128. BB&T had actual knowledge of the scope and limitations on the authority the Group B Plaintiffs granted to Pro Sports, Rubin and other Pro Sports as a result of their relationship.

129. BB&T had actual knowledge that Pro Sports, Rubin and other Pro Sports breached the fiduciary duties owed to the Group B Plaintiff in the manners outlined above.

130. BB&T knowingly and voluntarily aided, abetted and otherwise provided substantial assistance to Pro Sports, Rubin and other Pro Sports employees in their breach of the fiduciary duties owed to the Group B Plaintiffs.

131. BB&T could have, and should have, acted to prevent or limit the breaches of fiduciary duty that Pro Sports, Rubin and other Pro Sports were able to effectuate through the use of the Group B Accounts.

132. As a direct and proximate result of BB&T's aiding and abetting these breaches of fiduciary duty, Group B Plaintiffs have suffered and incurred damages.

WHEREFORE, Group B Plaintiffs request that the Court enter a Judgment in favor of Group B Plaintiffs, and against Defendant, BRANCH BANKING AND TRUST COMPANY, for all damages incurred by Group B Plaintiffs, for punitive damages as appropriate and for such other and further relief as the Court deems just and proper.

COUNT VII - AIDING AND ABETTING FRAUD (AS TO GROUP A PLAINTIFFS)

133. Group A Plaintiffs reallege and incorporate paragraphs 1 through 64 above as if fully set forth herein.

134. Pro Sports, Rubin and other Pro Sports employees who held themselves out to be attorneys-in-fact for the Group A Plaintiffs, provided the Group A Plaintiffs with tax planning, business counseling and concierge services.

135. Pro Sports, Rubin and Pro Sports employees represented to Group A Plaintiffs that their services would be limited in accordance with the Client Service Agreement and that they would otherwise act in the interests of the Group A Plaintiffs and with their knowledge and consent.

136. Pro Sports, Rubin and Pro Sports employees knew that these representations were false and they intended to exceed the scope of these representations in order to garner some personal benefit, including but not limited to, receiving commissions on the "investments" they made on behalf of the Group A Plaintiffs.

137. Pro Sports, Rubin and Pro Sports employees intended that the Group A Plaintiffs would rely on these representations and would, as a result of these representations, entrust Pro Sports, Rubin and Pro Sports with their assets.

138. The Group A Plaintiffs did rely on the representations by Pro Sports, Rubin and other Pro Sports employees and were damaged as a result of this fraud and their reliance on these representations when Pro Sports, Rubin and Pro Sports, with BB&T's assistance, engaged in actions such as opening and maintaining the Group A Accounts without Group A Plaintiffs' knowledge and/or informed consent, making the Group A Improper Withdrawals without Group A Plaintiffs' knowledge and/or informed consent, engaging in selling away schemes, exceeding the scope of their Client Services Agreement with each Group A Plaintiff and otherwise acting contrary to the interests of the Group A Plaintiffs.

139. BB&T had actual knowledge of the scope and limitations on the authority the Group A Plaintiffs granted to Pro Sports, Rubin and other Pro Sports as a result of their relationship.

140. BB&T had actual knowledge of the fraud being committed on the Group A Plaintiffs by Pro Sports, Rubin and other Pro Sports employees.

141. BB&T knowingly and voluntarily aided, abetted and otherwise provided substantial assistance to Pro Sports, Rubin and other Pro Sports employees in their fraudulent scheme against the Group A Plaintiffs.

142. BB&T could have, and should have, acted to prevent or limit the fraud that Pro Sports, Rubin and other Pro Sports were able to effectuate through the use of the Group A Accounts.

143. As a direct and proximate result of BB&T's aiding and abetting this fraud, Group A Plaintiffs have suffered and incurred damages.

WHEREFORE, Group A Plaintiffs request that the Court enter a Judgment in favor of Group A Plaintiffs, and against Defendant, BRANCH BANKING AND TRUST COMPANY, for all damages incurred by Group A Plaintiffs, for punitive damages as appropriate and for such other and further relief as the Court deems just and proper.

COUNT VIII – AIDING AND ABETTING FRAUD (AS TO GROUP B PLAINTIFFS)

144. Group B Plaintiffs reallege and incorporate paragraphs 1 through 39 and 65 through 80 above as if fully set forth herein.

145. Pro Sports, Rubin and other Pro Sports employees who held themselves out to be attorneys-in-fact for the Group B Plaintiffs, provided the Group A Plaintiffs with tax planning, business counseling and concierge services.

146. Pro Sports, Rubin and Pro Sports employees represented to Group B Plaintiffs that their services would be limited in accordance with the Client Service Agreement and that they would otherwise act in the interests of the Group B Plaintiffs and with their knowledge and consent.

147. Pro Sports, Rubin and Pro Sports employees knew that these representations were false and they intended to exceed the scope of these representations in order to garner some personal benefit, including but not limited to, receiving commissions on the "investments" they made on behalf of the Group B Plaintiffs.

148. Pro Sports, Rubin and Pro Sports employees intended that the Group B Plaintiffs would rely on these representations and would, as a result of these representations, entrust Pro Sports, Rubin and Pro Sports with their assets.

149. The Group B Plaintiffs did rely on the representations by Pro Sports, Rubin and other Pro Sports employees and were damaged as a result of this fraud and their reliance on these representations when Pro Sports, Rubin and Pro Sports, with BB&T's assistance, engaged in actions such as making the Group B Improper Withdrawals without Group B Plaintiffs' knowledge and/or informed consent, engaging in selling away schemes, exceeding the scope of the powers of attorneys executed by some of the Group B Plaintiffs, exceeding the scope of their Client Services Agreement with each Group B Plaintiff and otherwise acting contrary to the interests of the Group B Plaintiffs.

150. BB&T had actual knowledge of the scope and limitations on the authority the Group B Plaintiffs granted to Pro Sports, Rubin and other Pro Sports as a result of their relationship.

151. BB&T had actual knowledge of the fraud being committed on the Group B Plaintiffs by Pro Sports, Rubin and other Pro Sports employees.

152. BB&T knowingly and voluntarily aided, abetted and otherwise provided substantial assistance to Pro Sports, Rubin and other Pro Sports employees in their fraudulent scheme against the Group B Plaintiffs.

153. BB&T could have, and should have, acted to prevent or limit the fraud that Pro Sports, Rubin and other Pro Sports were able to effectuate through the use of the Group B Accounts.

154. As a direct and proximate result of BB&T's aiding and abetting this fraud, Group B Plaintiffs have suffered and incurred damages.

WHEREFORE, Group B Plaintiffs request that the Court enter a Judgment in favor of Group B Plaintiffs, and against Defendant, BRANCH BANKING AND TRUST COMPANY,

for all damages incurred by Group B Plaintiffs, for punitive damages as appropriate and for such other and further relief as the Court deems just and proper.

COUNT IX – BREACH OF FIDUCIARY DUTY AS TO GROUP A PLAINTIFFS

155. Group A Plaintiffs reallege and incorporate paragraphs 1 through 64 above as if fully set forth herein.

156. As alleged above, certain special circumstances exist as to the relationship between each Group A Plaintiff and BB&T that give rise to a fiduciary relationship between BB&T and each Group A Plaintiff, including the following:

- (a) organizing, prioritizing, and offering a specific division in the bank dedicated to sports and athletes marketed to professional athletes (including the Group A Plaintiffs) as an added benefit and service to those who qualified;
- (b) accepting and maintaining the ability to receive greater economic benefit from those customers (including the Group A Plaintiffs) who qualified for the division of BB&T dedicated to sports and athletes due to their wealth and economic potential;
- (c) requiring, accepting and maintaining the ability to act upon the extra knowledge about the persons who qualified for this special division within BB&T (including, for example, the Client Service Agreement that BB&T acquired relating to each Group A Plaintiff);
- (d) taking on the extra service of opening the Group A Accounts in the names of the Group A Plaintiffs after a security incident at Pro Sports, without the Group A Plaintiffs' knowledge or consent;
- (e) allowing the Group A Accounts to be opened as power of attorney accounts without the Group A Plaintiffs' knowledge or consent; and

(f) maintaining a close, active and prominent relationship with Pro Sports and its employees, which relationship allowed BB&T to have access to the Group A Plaintiffs and their money (including the monies maintained in the Group A Accounts).

157. As a result, BB&T owed each Group A Plaintiff a fiduciary duty.

158. BB&T breached the fiduciary duty it owed to Group A Plaintiff by opening and maintaining the Group A Accounts without the Group A Plaintiffs' knowledge and consent as outlined above, including:

(a) opening the Group A Accounts without the Group A Plaintiffs' knowledge or consent;

(b) failing to notify the Group A Plaintiffs that the Group A Accounts were opened on their behalf by a third party;

(c) failing to notify the Group A Plaintiffs that the Group A Accounts were established as power of attorney accounts;

(d) listing Pro Sports' address as the address for the Group A Accounts without the Group A Plaintiffs' knowledge or consent;

(e) delivering statements and other items relating to the Group A Accounts to Pro Sports instead of to Group A Plaintiffs;

(f) allowing activity on the Group A Accounts with knowledge that the Group A Plaintiffs did not open the Group A Accounts and did not sign the signature cards for these accounts;

(g) allowing activity on the Group A Accounts that exceeded the scope of the Client Services Agreement that BB&T had on file; and

(h) failing to disclose to the Group A Plaintiffs that Pro Sports was making loans, engaging in transactions and otherwise exceeding the scope of the Client Services Agreement that BB&T had on file.

159. As a direct and proximate result of BB&T's breach of fiduciary duty, the Group A Plaintiffs have suffered and incurred damages.

WHEREFORE, Group A Plaintiffs request that the Court enter a Judgment in favor of Group A Plaintiffs, and against Defendant, BRANCH BANKING AND TRUST COMPANY, for all damages incurred by Group A Plaintiffs, for punitive damages as appropriate and for such other and further relief as the Court deems just and proper.

COUNT X – BREACH OF FIDUCIARY DUTY AS TO GROUP B PLAINTIFFS

160. Group B Plaintiffs reallege and incorporate paragraphs 1 through 39 and 65 through 80 above as if fully set forth herein.

161. As alleged above, certain special circumstances exist as to the relationship between each Group B Plaintiff and BB&T that give rise to a fiduciary relationship between BB&T and each Group B Plaintiff, including the following:

(a) organizing, prioritizing, and offering a specific division in the bank dedicated to sports and athletes marketed to professional athletes (including the Group B Plaintiffs) as an added benefit and service to those who qualified;

(b) accepting and maintaining the ability to receive greater economic benefit from those customers (including the Group B Plaintiffs) who qualified for the division of BB&T dedicated to sports and athletes due to their wealth and economic potential;

(c) requiring, accepting and maintaining the ability to act upon the extra knowledge about the persons who qualified for this special division within BB&T

(including, for example, the Client Service Agreement that BB&T acquired relating to each Group B Plaintiff); and

(d) maintaining a close, active and prominent relationship with Pro Sports and its employees, which relationship allowed BB&T to have access to the Group B Plaintiffs and their money (including the monies maintained in the Group B Accounts).

162. As a result, BB&T owed each Group B Plaintiff a fiduciary duty.

163. BB&T breached the fiduciary duty it owed to Group B Plaintiff by opening and maintaining the Group B Accounts without the Group B Plaintiffs' knowledge and consent as outlined above, including:

(a) opening one or more of the Group B Accounts as a power of attorney account when in fact no power of attorney had been obtained at or prior to the opening of the account;

(b) occasionally allowing activity on the Group B Accounts that was consummated by an individual who was not the Group B Plaintiff who owned the account and who was not the attorney-in-fact identified for that particular account;

(c) allowing activity on the Group B Accounts that exceeded the scope of the Client Services Agreement that BB&T had on file; and

(d) failing to disclose to the Group B Plaintiffs that Pro Sports was making loans, engaging in transactions and otherwise exceeding the scope of the Client Services Agreement that BB&T had on file.

164. As a direct and proximate result of BB&T's breach of fiduciary duty, the Group B Plaintiffs have suffered and incurred damages.

WHEREFORE, Group B Plaintiffs request that the Court enter a Judgment in favor of Group B Plaintiffs, and against Defendant, BRANCH BANKING AND TRUST COMPANY, for all damages incurred by Group B Plaintiffs, for punitive damages as appropriate and for such other and further relief as the Court deems just and proper.

COUNT XI – NEGLIGENT SUPERVISION (ALL PLAINTIFFS)

165. Plaintiffs reallege and incorporate paragraphs 1 through 80 above as if fully set forth herein.

166. Most, if not all, of the accounts maintained in Plaintiffs' names were opened by a BB&T employee named Steve Johnson ("Mr. Johnson").

167. Mr. Johnson was an employee within BB&T's division dedicated to sports and athletes.

168. BB&T's division dedicated to sports and athletes was led and managed by a BB&T employee named Phil Fitzpatrick ("Mr. Fitzpatrick").

169. Mr. Johnson reported to Mr. Fitzpatrick.

170. In opening and maintaining the accounts at issue in the manner allowed, Mr. Johnson was unfit for his position with BB&T.

171. Mr. Fitzpatrick and BB&T knew or should have known about the Plaintiffs' accounts that were opened by Mr. Johnson.

172. Mr. Fitzpatrick and BB&T knew or should have known about the close relationship that was developed by Mr. Johnson and Pro Sports (and its employees).

173. Mr. Fitzpatrick and BB&T knew or should have known that Mr. Johnson opened the Group A Accounts as a favor to Pro Sports and without the Group A Plaintiffs' knowledge or consent.

174. Mr. Fitzpatrick and BB&T knew or should have known that Mr. Johnson did not seek to notify the Group A Plaintiffs about the opening of the Group A Accounts and did not contact the Group A Plaintiffs to have them sign legitimate signature cards for the Group A Accounts.

175. Mr. Fitzpatrick and BB&T knew or should have known that Mr. Johnson caused the statements and other items relating to the Group A Accounts to be delivered to Pro Sports instead of to the Group A Plaintiffs.

176. Mr. Fitzpatrick and BB&T knew or should have known that Mr. Johnson opened one or more of the Group A and/or Group B Accounts as a power of attorney account when in fact no power of attorney had been obtained at or prior to the opening of the account.

177. Mr. Fitzpatrick and BB&T knew or should have known that Mr. Johnson occasionally allowed activity on the Group A and/or Group B Accounts that was consummated by an individual who was not the Group A Plaintiff or Group B Plaintiff who owned the account and who was not the attorney-in-fact identified for that particular account.

178. Mr. Fitzpatrick and BB&T knew or should have known that because of Mr. Johnson's actions Pro Sports and its employees were allowed to transact business on the Plaintiffs' accounts that exceeded the scope of the Client Services Agreement that BB&T had on file.

179. Mr. Johnson, Mr. Fitzpatrick and BB&T failed to disclose to the Plaintiffs that Pro Sports was able to and did make loans, engage in transactions and otherwise exceed the scope of the Client Services Agreement that BB&T had on file.

180. By opening and maintaining accounts in Plaintiffs' names, BB&T owed Plaintiffs a duty with respect to properly supervising its employees and their actions associated with those accounts.

181. BB&T breached the duties it owed to the Plaintiffs, and was grossly negligent and conducted its duties in bad faith, by allowing Mr. Johnson to act in the manner alleged above and by failing to take further action, such as investigation, discharge or reassignment.

182. As a direct and proximate result of BB&T's breach of its duty to properly supervise Mr. Johnson, Plaintiffs have suffered and incurred damages.

WHEREFORE, Plaintiffs request that the Court enter a Judgment in favor of Plaintiffs, and against Defendant, BRANCH BANKING AND TRUST COMPANY, for all damages incurred by Plaintiffs, for punitive damages as appropriate and for such other and further relief as the Court deems just and proper.

DEMAND FOR JURY TRIAL

183. Plaintiff hereby demands a trial by jury on all issues so triable.

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